

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL DAVIS,

Plaintiff,

-against-

RAUL RAMOS, Medical Director, North Infirmery
Command; CHRISTOPHER LaROSA, Physician's
Assistant, North Infirmery Command, individually and in
their official capacities; and CITY OF NEW YORK,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC # _____
DATE FILED: Feb. 28, 2020

ORDER
19 Civ. 6419 (ER)

Ramos, D.J.:

On July 9, 2019, Michael Davis ("Plaintiff" or "Davis"), proceeding *pro se*, commenced this action against Defendants alleging a violation of his Eighth and Fourteenth Amendment rights, pursuant to 42 U.S.C. § 1983. Doc 2. Specifically, he claimed that Defendants created a safety hazard by installing wheelchair accessible showers, which resulted in Davis slipping, falling, and injuring his right shoulder. *Id.* Allegedly, Defendants refuse to provide him with a full scan of diagnostic tests on his arm for over 14 months and ignored his complaints of pain and loss of full use of his arm. *Id.*

On July 19, 2019, the Clerk of Court mailed Davis an "Order Granting [*In Forma Pauperis*] IFP Application in Prisoner Case," which stated that it is his obligation to update the Court when his address changes and that the Court may dismiss the action if he fails to do so. *See* Doc. 4, 2; *see also* *Laney v. Ramirez*, 2011 WL 6594491, at *1 (S.D.N.Y. Dec. 22, 2011) (collecting cases to that effect). The address of record for Davis is the North Infirmery Command in East Elmhurst, NY.

On October 18, 2019, Defendants filed a motion to dismiss the action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedures. Doc. 24. Davis did not respond. On November 22, 2019, the Court granted Defendants' request to compel Davis to respond to the motion or else it would be deemed fully briefed. Doc. 29. The Court set a deadline of December 13, 2019 for Davis to file his response to the motion and directed the Clerk of Court to mail a copy of the Order to Davis. *Id.*

Davis did not respond by the deadline and on January 8, 2020, the Court denied Defendants' second request to deem the motion fully briefed and *sua sponte* granted Davis an extension till January 29, 2020. Doc. 31. The Clerk of Court immediately mailed a copy of the January 8, 2020 Order to Davis, but that same day informed the Court that the November 22, 2019 Order it had mailed to Davis was returned as undeliverable because Davis had been transferred to a different state prison and there was no forwarding address.


Upon information and belief, as of October 29, 2019, Davis has been residing at the Woodbourne Correctional Facility, located at 99 Prison Road, Woodbourne, NY 12788.¹ Davis has not provided the Court with an updated address. *See* Doc. 4, 2. It is well established in this Circuit that *pro se* litigants may in general deserve more lenient treatment than those represented by counsel; however, that does not mean they cannot suffer the consequences of their actions like other litigants. *See Tracy v. Freshwater*, 623 F.3d 90, 101 (2d Cir. 2010) (collecting cases). The Court, at its discretion, grants Davis one final opportunity to pursue his case. **Accordingly, Davis is directed to respond to the motion to dismiss by March 31, 2020 or he may face sanctions for ignoring court orders, including the motion to dismiss being deemed fully briefed or his case being dismissed.**

¹ Pursuant to records from the New York State Department of Corrections and Community Supervision.

The Clerk of Court is respectfully directed to mail a copy of this Order to Davis (NYSID 04206193N) at the Woodbourne facility located at 99 Prison Road, Woodbourne, NY 12788.

It is SO ORDERED.

Dated: February 28, 2020
New York, New York



Edgardo Ramos, U.S.D.J.